IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 489/2001
(Old No.2993/1987)

M/S Chunni Lal & Company
6, Ramlila Bazar, Dehradun -- Applicant

Vs

State of U.P. ... Respondent.

Sri Kuldeep Rawal, holding brief for Sri Lokendra Dobhal
Learned counsel for the applicant.
Sri G.S. Sandhu, learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed by M/S Chunni Lal and Company challenging the prosecution of the firm under the provisions of Uttar Pradesh Seeds and Seeds Oil Product Control Order, 1966.

2- Brief facts of the case are that the petitioner is a dealer in wholesale oil and oil seeds and retailer in Vanaspati and is carrying on the business in the name and style of M/S Chunni Lal and Company. On 15-11-1985 the District Supply Officer along with other officials of the Supply Department came to the firm of the petitioner and found that the petitioner did not possess the licence for the wholesale dealer of the oil. It is also alleged in the first information report that there were certain irregularities in the maintenance of the stock register pertaining to the Vanaspati Ghee.

3- On the basis of the first information report the prosecution was launched against the petitioner and ultimately the charge sheet was filed against it on 31-10-1989, which is contained Annexure-10 to the affidavit.

4- The petitioner has thus filed this petition for quashing the criminal proceedings pending against it in pursuance to the aforesaid charge sheet filed U/S 3/7 Essential Commodities Act.

5- Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

6- Learned counsel for the petitioner has argued that in view of the provisions of Uttar Pradesh Seeds and Seeds Oil Product Control, Order 1966, which was subsequently amended in the year 1971, the District Supply Officer did not have any power to enter, search and seizure of the firm. Therefore, the proceedings initiated on the basis of the inspection of the District Supply Officer could not have been initiated against the firm and the proceedings therefore against the firm under the provisions of Essential Commodities Act, are thus vitiated.

7- I fail to appreciate the argument advanced by the learned counsel for the petitioner.

8- This case does not pertain to the seeds and oil products only, as according to the allegations made in the first information report, the petitioner was also dealing with the Vanaspati Ghee and in view of the Uttar Pradesh Vanaspati Dealers Licensing Order, 1969 as well as the Notification dated 31-1-1984 pertaining to Section 10 of the Licencing Order, the District Supply Officer has power to enter, search and seizure. The aforesaid Control Orders are contained as Annexure-A-1 to the counter affidavit filed by the state.

9- Having considered the arguments advanced by the learned counsel for the petitioners, I am of the view that there is no abuse of process of the court in this case. While exercising the power under Section 482 Cr.P.C., it would not be justified on my part in going through the disputed question of fact by appreciating the documents and the evidence produced before me by treating them as evidence to hold the accused persons as innocent because it will amount the pre-trial of a criminal case. I am not supposed to embark upon any enquiry whether the allegations in the prosecution case are likely to establish by evidence or not. In this petition, I am concerned only to examine whether the First Information Report or the complaint or the material collected by the prosecution taken on their face value and accepted in entirety, prima-facie constitutes an offence or make out a case against the accused persons. I am not supposed to pre-judge the police papers and the discrepancies, if any, therein. The allegations made in the First Information Report and the material collected by the Investigating Officer during the investigation are referred to in making out a prima facie case of the offence. I don't find any ground to quash the proceedings at this stage by appreciating evidence.

10. The petition lacks merit and is liable to be dismissed.

11. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

Dated 21-07-2006

ISB